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EXAMINER

LEE, SEUNG H

ART UNIT

PAPER NUMBER

2876

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 11

Application Number: 09/546,962
Filing Date: April 11, 2000
Appellant(s): MERCHANT, PETER

Himanshu S. Amin
For Appellant

EXAMINER'S ANSWER

MAILED

JUN 12 2003

GROUP 2800

This is in response to the appeal brief filed March 11, 2003.

Art Unit: 2876

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-23 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,053,409

Brobst et al.

04-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Brobst et al. (US 6,053,409).

Re claims 1, 3-6, 12, 15, 16, 21, 23; Brobst et al. discloses a system for scanning a barcode comprising a light source (122), a piezoelectric material reflector (124) having an arcuate reflective surface with a variable shape generally radial, a shape controlling system (260) for controlling the shape of reflector according to the voltage or power source, a oscillating mirror (129) serving as a beam expander wherein the reflector reflecting a light beam from the light source onto the beam expander, the beam expander reflecting the light beam onto the target, and the shape controlling system varying the shape of the reflector (see Fig. 5-8; col. 5, lines 5- 60), a housing having horizontal top and bottom sides, vertical left and right sides, and an aperture in one of the sides (see Fig. 11; col. 6, line 44 – col. 8, line 3).

Re claim 2: Brobst et al. discloses a photo sensor (132 and 154) generates an electrical representative of reflected light beam from the target (see Fig. 5, 5A; col. 4, lines 48-67).

Re claims 7-11, and 18-20, and 22: Brobst et al. discloses an expander having a cylindrical, a spherical, or a convex arcuate reflective surface (see col. 3, line 52- col. 4, line 36).

Re claims 13, and 14: Brobst et al. discloses a conversion and interface system receiving the electrical signal from the photo sensor and converting the electrical signal to a digital code (see col. 3, lines 29- 45).

Re claim 17: The reflector in Brobst et al. includes a piezoelectric material having a metal electrode layer (262) and a piezoceramic layer (264) which serve as two electrode wherein the shape of reflector varies according to the voltage across the electrodes (see Fig. 6, 7; col. 5, lines 25-42).

(11) Response to Argument

The examiner respectfully disagrees with appellant's comments and arguments as stated in the "argument" section of the Appeal Brief, for following reasons:

Appellant contents that "Brobst et al. does not disclose a beam expander, as recited in independent claims 1, 15, and 23" (see page 4, 1st paragraph). Further, Appellant contents that "the specification of the subject application support the construction of a beam expander as providing an expansion of a beam, or light ray" (see page 4, 2nd paragraph), and that "Brobst et al. does not provide for an expansion of a light beam" (see page 5, 2nd paragraph).

The examiner respectfully submits that the instant specification clearly discloses a mirror (300 in Fig. 7b) which reflects the light beam from a surface of the piezoelectric material onto the target (60) (see line 25+ in page 13 of the specification). Similarly, Brobst et al. disclose an oscillating mirror (129) for generating the scanning beam (138) by reflecting the laser beam (134) onto the barcode labels (144 and 148) (see Fig. 5A; column 4, line 60- column 5, line 24).

Even accepting appellant's argument that the "beam expander" in the present claim function to expand the light beam, it is submitted that Brobst et al. also teaches a scanner (10) having a polygonal scan mirror (16) which can be configured as an elliptical or spherical shape that can be substituted for the oscillating mirror for the purpose of reflecting and expanding a light beam onto the target (see Figs. 1-5A; col. 3, line 52- col. 4, line 28).

Appellant contends that Brobst et al. does not disclose that the light beam is expanded by the mirror as recited in the subject claim (see page 5, 3rd paragraph).

However, it is noted that the functional phrase "*whereby said light beam is expanded by the mirror*" is recited in the dependent claim 22 not in independent claim 21. In any event, Brobst et al. also disclose a polygonal mirror (16) having a concave facet (44) and a flat facet (46) which expands/reflects the light beam, and the polygonal mirror can be substituted for the oscillating mirror in the scanning apparatus (see Figs. 1-5A; column 3, line 52- column 4, line 28).

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Seung H. Lee Examiner Art Unit 2876

SHL 

June 10, 2003

Appeal Conference : April 29, 2003


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Conferee, SPE 2876,

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